

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

JESSICA SUE MCQUEEN TORNBLAD,

Plaintiff,

v.

STATE OF OREGON, et al.,

Defendants.

No. 3:16-cv-01470-JE

OPINION AND ORDER

MOSMAN, J.,

On September 13, 2016, Magistrate Judge John Jelderks issued his Findings and Recommendation (“F&R”) [5], recommending that Plaintiff’s action should be DISMISSED without service of process for failure to state a claim upon which relief may be granted. Plaintiff failed to object to the F&R.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of

the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon careful review, I agree with Judge Jelderks's recommendations and I ADOPT the F&R [5] as my own. The action should be DISMISSED without service of process for failure to state a claim upon which relief may be granted. The action is dismissed with prejudice as to the State of Oregon and without prejudice as to the remaining defendants.

IT IS SO ORDERED.

DATED this 17 day of October, 2016.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
Chief United States District Judge